

REMARKS

In the Office Action mailed January 13, 2004, Examiner rejected claims 1, 4, 5 and 8 under 35 U.S.C. 102(b) as being anticipated by Hewitt et al., United States Patent No. 5,735,195, Examiner opining that Hewitt discloses, inter alia, a windrower as claimed in the present application in independent claims 1 and 5. In support of that observation, Examiner inserted a portion of Figure 1 from the Hewitt reference with an arrow pointing at what appears to be a support plate for one of the vanes 25. The support plates are not themselves independently referenced or discussed in the disclosure by Hewitt and unfortunately are not included in Figure 4 of the Hewitt reference which purports to be a front elevation view of the roller assembly of Figure 1, or in Figure 2 which is a cross-sectional view of the roller assembly of Figure 1. Consequently, it falls to the balance of probabilities as to the structure and function of the plates which Examiner opines to be windrowers. Applicant respectfully traverses Examiner's opinion on that point, respectfully asking Examiner to note that the vanes 25 which are illustrated to abut against the support plates, are consistently illustrated as having laterally outermost edges which lie in a plane coplanar with planes containing the ends of drum roller 15. Consequently a plate abutted against those edges of the vanes would not serve to form windrows of the material being compressed by the roller at all. That is, the material would not be channeled into an elongate mound. This is consistent with one of the stated functions of the vanes, namely, that the vanes are "shaped and positioned to allow compaction of cotton located in corners of bin 2" (column 3, lines 52-54). (emphasis added)

It is neither taught nor suggested in the Hewitt reference to mount a windrower to a frame common to the drum roller. A windrower, that is for forming windrows, would not be expected in the structure taught by Hewitt in that the drum roller is mounted on carriage 6 which is moveably mounted to bin 2 by roller 7 engaging upper edges 8 of bin 2, and, further, rollers 9 engaging respective tracks 10 to prevent lateral movement of carriage 6 (see column 3, lines 28-31). To equate this structure of Hewitt to the present application, would be to mandate that the drum roller, windrower and frame according to the present invention are mounted to the upper edges of the chip-carrying trailers. This of course is not the case. Instead, the chip carrying trailers are pulled by a tractor underneath the frame which supports the drum roller and

windrower. Thus, the lateral orientation of the drum roller relative to the load of chips becomes an issue in the present application, wherein in the application of Hewitt it is not an issue. The lateral orientation of the drum roller of Hewitt relative to the cotton carrying bin is not an issue because, as taught by Hewitt, the drum roller is mounted on its carriage which is moveably mounted directly onto the bin.

Applicant respectfully submits that, without the benefit of applicant's teaching in the present application, that is, without the benefit of hindsight, that it cannot be fairly said Hewitt either teaches or suggests the use of a windrower mounted on a frame on which is also mounted a drum roller, the taught function of the drum roller vanes of Hewitt in fact teaching away from the use of a windrower as claimed in the present application. As disclosed in Figure 1 of the Hewitt reference, what applicant submits are support plates do not serve the function of a windrower, and are not adapted to do so in that they appear to be generally square plates mounted to the ends of the drum roller to support the outermost edges of the vanes and thus would rotate simultaneously with rotation of the drum roller. In the shape and size illustrated in Figure 1 of the Hewitt reference, the support plates would not function as windrowers at all.

With respect to the rejection of claims 4 and 8, applicant submits that those claims are patentable for at least the reason that they depend from claims which patentably distinguish over the cited art.

With respect to Examiner's rejection of claims 2-3 and 6-7 under 35 U.S.C. 103(a) as being unpatentable over Hewitt et al. in view of Hering (US 4,077,189), applicant reiterates the above comments in response to Examiner's statement that Hewitt discloses a windrower.

As stated above, Hewitt in fact neither teaches nor suggests the use of a windrower and so consequently there is a failure of that prior art to suggest the combination with the cited Hering reference, Hering teaching the use of divergent twin hay rakes for feeding into a baler. In the farming application to which Hering is directed, a downwardly compressing drum roller would in fact, it is submitted, be detrimental to the object of the baler namely the lifting and rolling of the hay from the field.


The certified priority document will be provided at the time of allowance.

New claims 9 and 10, which depend from claims 1 and 5 respectively, have been added to claim the feature of the windrower being mounted to the frames so as to be laterally translatable relative to the roller.

Examiner is respectfully requested to now pass this application to allowance.

Respectfully submitted,
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